



**Minutes of the State Board of Health
July 8, 2009
The Inn at Port Hadlock, Port Hadlock, WA**

SBOH members present:

Treuman Katz, MBA, Chair
The Honorable John Austin, PhD
Maxine Hayes, MD, MPH
Keith Higman, MPH

Patricia Ortiz, MD
Mel Tonasket
Karen VanDusen
The Honorable Donna Wright

SBOH members absent:

Frankie T. Manning, MN, RN

Diana T. Yu, MD, MSPH

State Board of Health Staff present:

Craig McLaughlin, Executive Director
Desiree Robinson, Executive Assistant
Heather Boe, Communications Consultant

Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst

Guests and Other Participants:

Jean Baldwin, Jefferson County Public Health
Dave Christensen, Department of Health
Denise Clifford, Department of Health
Kelly Cooper, Department of Health
Roberta Frissell, Jefferson County Board of Health
Sara H., Washington Schools Risk Management Pool
John Larson, WA Assoc. of Conservation Districts
Thomas Locke, Jefferson County Public Health

Chris Nelson, Jefferson County Board of Health
Drew Noble, H2O Management Services
Riley Peter, Department of Health
Bat-Sheva Stein, Department of Health
Erik Smith, Your Health Care Today
David Sullivan, Jefferson County Board of Health
Tami Thompson, Department of Health
Mary Wendt, Department of Health
Quen Zorrah, Jefferson County Public Health

Treuman Katz, SBOH Chair, called the public meeting to order at 8:36 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve July 8, 2009 agenda

Motion/Second: Higman/ Austin. Approved unanimously

2. ADOPTION OF MONTH DAY, YEAR MEETING MINUTES

Motion: Approve the June 10, 2009 minutes

Motion/Second: VanDusen/ Ortiz. Approved unanimously

3. WELCOME TO JEFFERSON COUNTY

John Austin, SBOH Member, welcomed the State Board of Health to Jefferson County. He introduced David Sullivan and Chris Nelson, fellow members of the Jefferson County Board of Health. He explained that the local board of health has seven members—three county commissioners, a hospital representative, a representative of the City of Port Townsend, and two

members at large. The current chair is Mr. Sullivan. Member Austin said Jefferson County has a population of about 28,000 including a significant number of elderly residents. The county has three high schools. Medical facilities are rather limited. Jean Baldwin, Jefferson County Public Health Administrator, said the area economy is resource-based. There is poverty in the young. The local health department buys health officer services from Clallam County and epidemiology services from Kitsap County. Dr. Maxine Hayes, State Health Officer, noted that the area draws people with high intellectual levels and skills, and people should consider this a major resource.

4. THE SCIENCE OF MATERNAL AND CHILD HEALTH

Quen Zorrah, Jefferson County Public Health Nurse, shared a story about a young woman who was a victim of abuse and violence and had mental health challenges. Ms. Zorrah came to know her doing her pregnancy. Her pregnancy went well and she had a healthy baby. When the baby was 5 months old, the mother had begun to see her son as “out to get her.” Her response was to spank him. Over the course of more than a year of home visiting through the county health department’s Nurse Family Partnership program, the public health nurse was able to get the mother to understand that her child’s behavior was natural curiosity, and that her reaction grew out of her own history of abuse and neglect. The hitting stopped.

Ms. Zorrah explained that in the past 10 years she has come to look at maternal and child health (MCH) programs differently. The nurse-family partnership model, which has become the gold standard, addresses the health of both the child and mother. She described the need to stop the old “cradle to prison” system and to intervene when children are babies, rather than adolescents. It takes nurses, rather than paraprofessionals, to make the partnerships most effective. The Nurse Family Partnership is an evidence-based program. The Washington State Institute for Public Policy has shown that such programs reduce future societal costs—for example, prison construction and foster care placement. Ms. Baldwin said state funding cuts for MCH programs are causing local health jurisdictions to dismantle their home-visiting programs.

Chair Katz said he considered Ms. Zorrah’s presentation one of the most significant he has heard since he came to the Board. Dr. Hayes called MCH programs the oldest public health programs, anchored in Social Security. She considers money spent on women’s health programs to have the greatest effect on long-term health and health cost savings. Member Austin noted that the people who need mental health and MCH programs are least able to advocate for themselves.

5. BOARD-TO-BOARD DISCUSSION

Member Austin introduced another member of the local board of health, Roberta Frissell, Citizen-at-Large. Mr. Sullivan, Chair of Jefferson County Board of Health, said he considers funding for MCH programs one of the most important issues the local board has faced. He sees the long-term benefits the program can provide. Ms. Frissell commented on on-site sewage system regulation. Members of the public overfilled a local board of health meeting in January 2008 and raised concerns about fees and other costs of on-site system rules. The board backed off on requirements. The public favors self-inspection of on-site systems. She asked how the public was responding in other areas of the state. Keith Higman, SBOH Vice Chair, said he participated in the last major revision of the State Board’s on-site rules. He added that public health officials in other areas are hearing the same concerns as in Jefferson County. He described that in Island County, where he is the health director, they have a fee-for-service on-site program. He said that some members of the public understand the importance of protecting ground water drinking supplies, while others are slower to understand. He said Island County had developed a video to help train people to inspect their systems and would be happy to share it.

6. SBOH ANNOUNCEMENTS AND OTHER BUSINESS

Craig McLaughlin, SBOH Executive Director, reported on the Board's budget. He drew members' attention to a June 18, 2009 memo from Governor Gregoire requiring all agencies to reduce employee costs an additional 2% for the 2009-11 biennium. Although details about how the cuts will be implemented are not known, the Board will need to do its share. He expects the Board can absorb this amount (about \$10,000); however, any additional cuts would require making some difficult choices. Chair Katz asked Mr. McLaughlin and Dr. Hayes whether there is likely to be a continuing round of reductions. Dr. Hayes said she would expect a lag behind news that the economy is getting better and a rebound in state revenues. She said the budget reductions would last at least through 2011. Mr. McLaughlin responded that it is quite possible that this is not the last reduction for the biennium. Karen VanDusen, SBOH Member, asked about the budget cuts' impact on the next round of public forums. Mr. McLaughlin discussed the State Health Report and the Annual Report and said the Board will probably cancel the hearings for 2010. He said that the Board reduced expenditures during the last fiscal year by about 22% (\$160,000) below originally budgeted.

Mr. McLaughlin said that he understands that Patricia Ortiz's application for another term on the Board will be going to the Governor this week. He said that he has no news about the appointment of a replacement for Chair Katz. There are two separate issues related Mr. Katz's position—who will be appointed consumer representative and who will be appointed Chair. Chair Katz said that the Governor's office has been in contact with him.

Mr. McLaughlin reported that the Board has a new intern, Kristen Cha, who is a law student at Gonzaga and will be working on health impact reviews. He reported that a lawsuit, *Janes vs Harris*, to which he is named has been appealed to a higher court. He commented on two public records requests, one related to school rule meeting materials and the other about animal manure. The Board has also received two requests for rule making recently. One, concerning animal waste, is on the agenda later today. The other, related to Group A drinking water rules about consumer notification of monitoring results, is awaiting a recommendation from the Department of Health. Until then, staff does not have a recommendation for Board members on this second petition. He said the Board has 60 days to respond to a petition for rule making. He said the Chair has authority to make the decision under the Board's policy. The Board's Environmental Health Committee will make a recommendation to the Chair.

Mr. McLaughlin reported that the Board has a meeting scheduled for August 12 in Olympia. There was some discussion about the meeting room arrangements, size, and room availability. Members expressed concerns about using the same room used in June.

Mr. McLaughlin reported that the Governor is authorizing spending \$750,000 to purchase antiviral drugs and another \$150,000 to help with the response to pan flu. He said there is also \$350 million at the federal level to support pan flu response capacity, but how it will be dispersed has not been announced. He reported that the *Haemophilus influenzae* type b (Hib) vaccine shortage has been resolved. He asked the Board to consider developing a teleconferencing policy for Board meetings. He said he would like to get feedback from Board members by e-mail to help staff draft a policy. He also commented that if the Board wants to submit request legislation, the Governor's office has set deadlines for proposed request legislation of September 28 for bills that would not have fiscal impact and October 8 for bills that would have fiscal impact. He said that he is not recommending that the Board propose agency request legislation this year.

The Board took a break at 10:35 a.m. and reconvened at 10:47 a.m.

7. DEPARTMENT OF HEALTH UPDATE

Dr. Maxine Hayes, State Health Officer, reported that Secretary of Health Mary Selecky is leading a state delegation to an important national H1N1 influenza summit in Bethesda for the Governor. She said that there are reports of 98 people being hospitalized in Washington State with H1N1 influenza since April 19, 2009, with four deaths. The majority of Washington cases have been young people (between 0 and 24 years). The Department is working on mitigation strategies, with particular concern for the start of the new school year in August. She said the strategy is to avoid closing schools. She reminded the Board that seasonal flu is a major health risk that also must be addressed. She spoke of the importance of protecting health care professionals, as well as children and people who work with children. She acknowledged Dr. Tom Locke, Jefferson County Health Officer, for building partnerships with community providers to fight a flu outbreak. She explained that it would be important to get messages out that help people understand what they need to do to protect themselves from both seasonal influenza and the H1N1 variety.

Dr. Hayes said that on July 1, the Department implemented the first stage of new policy regarding vaccine purchasing with the discontinuance of state purchase of the human papilloma virus vaccine. By May 2010, the state will no longer pay for all childhood vaccines. Washington will instead rely on the federal Vaccine for Children (VFC) program for low-income families. She said that we do not know if the new purchase policy will affect immunization rates. She explained that the three big plans (covering 85% of the children in Washington) are committed to making sure their clients have access to vaccinations. She reminded the Board that a presentation on this subject is planned for the Board's October meeting. She said that she and Dr. Yu are involved in a few groups planning strategies to make the transition to VFC smooth. She pointed out in the audience Mary Wendt, the new Department of Health Assistant Secretary for Community and Family Health, and Riley Peters, who oversees the office that includes the Department's immunization program. Dr. Hayes also reported that a national outbreak of *E. coli* cases from cookie dough included five cases in Washington State.

8. PUBLIC TESTIMONY

Drew Noble, citizen, testified that he wished to talk about Group B drinking water system requirements. He also spoke regarding the petition for rule making, saying that Consumer Confidence Reports should continue to be required to be delivered to every consumer. He said he understands the reason for the Department of Health dropping the Group B water system program. However, if the state deregulates the monitoring of Group B systems, system owners should be required to inform consumers that their drinking water source is not monitored. He said the owners of the systems should be held responsible for consumer safety.

9. BOARD MEMBER COMMENTS AND CONCERNS

Chair Katz, suggested Board members might wish to discuss the issue of cuts to maternal and child health programs. Vice Chair Higman said he would not single out MCH programs. He said budget problems are affecting all of public health. Member VanDusen suggested that during strategic planning, the Board might wish to consider prioritizing programs. She then asked the Board to consider a resolution regarding federal health reform legislation related to public health funding. Dr. Hayes asked about opportunities to add something in the Board's strategic plan about incentives for evidence-based interventions. Mr. McLaughlin pointed out an attachment under Tab 8, an index for federal health reform legislation. He said that the proposed bills are very comprehensive and would have a large public health impact. Chair Katz commented that the Board's role appears to be very

broad regarding improving the health of the public. Member Tonasket commented that he would support the Board taking a strong position in support of the public's health. He said there is much more that can be done besides considering rules. Member Austin commented that the Board should temper its comments with what is affordable or possible. He suggested sending a letter to Congress. Chair Katz said he thinks the Board's role is at the state level, but should include letters to our congressional representatives. Member VanDusen suggested the Board consider a motion regarding sending a letter to the state's congressional representatives. Dr. Hayes encouraged the Board to take multiple approaches of sending letters to our congressional representatives and addressing the issues at the state and local levels. Member Tonasket suggested inviting congressional representatives to meet with members of the Board. Chair Katz said the Board may want to issue a press release about its concerns. Dr. Hayes recommended that the Board communicate these concerns to local boards of health, also. Patricia Ortiz, SBOH Member, spoke in support of the concept of the importance of maintaining public health infrastructure. Mr. McLaughlin suggested the Board consider a resolution, maybe at its October meeting. Chair Katz said that would be too late. The Board members supported sending letters immediately without a resolution. Vice Chair Higman said that letters to local boards of health should also be sent to county commissioners.

Motion:

The Washington State Board of Health authorizes the Chair to send letters of concern about the importance of support for public health infrastructure to Washington's congressional representatives, state legislators, and local public health decision makers.

Motion/Second: *Tonasket/VanDusen. Approved unanimously*

10. CHAPTER 246-291 WAC, UPDATE ON GROUP B DRINKING WATER SYSTEM RULES

Vice Chair Higman introduced this item and reminded Board members that Group B systems serve fewer than 15 connections and fewer than 25 people. He explained that there would need to be a change in the course of action planned due to budget cuts and 2009 amendments to the statutory authority for these rules. Ned Therien, SBOH Staff introduced Denise Clifford, Director of the Office of Drinking Water at DOH, and David Christensen, the policy unit supervisor overseeing the Group B rule revision. Ms. Clifford clarified that the Board's Group B rule was still in place. The main change is that there is now no state money to support oversight. She took the Board through a presentation (see Tab 10). She said DOH recommends focusing on design and source criteria and removing ongoing monitoring requirements. It also recommends changing the arsenic standard for Group B systems to match the Group A requirements (10 ppm). Member Austin asked if the regulatory framework for Group B systems concerning arsenic levels only involved initial design of the system. Ms. Clifford explained that for source approval, currently the arsenic level cannot be higher than 50 ppm. She said there has never been a requirement for ongoing monitoring of arsenic levels for Group B systems. Member Austin asked about "grandfathering" of existing sources. Ms. Clifford said that is an issue not yet addressed and could be part of future discussions. She said some local health jurisdictions have local rules requiring Group B systems to do ongoing monitoring and reduce arsenic levels. Vice Chair Higman commented that Island County is waiting for the revision of the state rules to decide how to deal with its Group B systems with higher arsenic levels. Ms. Clifford iterated that DOH is not planning oversight for ongoing monitoring, but leaving it to locals. Member VanDusen asked if DOH looked at multiple water quality constituents when conducting source approvals. Ms. Clifford said tests for a suite of chemicals is part of the source assessment and approval process. Member VanDusen asked if DOH was exploring some requirement for informing consumers that their Group B system was not subject to ongoing monitoring. Ms. Clifford

responded that DOH thinks it may be possible to require that such a notice be attached to the real estate title.

The Board recessed for lunch at 12:12 p.m. and reconvened at 1:07 p.m.

11. CHAPTERS 246-366 AND 246-366A WAC, UPDATE ON SCHOOL RULE

Vice Chair Higman introduced this agenda item. He explained that at its last meeting, the Board directed staff to file a supplemental CR-102 for the school rule. Between the last Board meeting and the filing deadline, conversations took place with the Office of the Attorney General, which resulted in the content of the CR-102. The hearing for this rule is scheduled for August. Mr. Therien explained that the Board's direction to staff at its June meeting was to revise the school rule proposal to reflect legislative restrictions on implementing new school facility rules. He explained that the supplemental CR-102 would allow the Board to consider two alternatives, the differences mainly being procedural. Both alternatives would establish the same regulatory requirements according to the proposal amended by the Board on October 8, 2008. Alternative A would use the procedural technique of amending the rule making order (CR-103) to allow the effective date of an adopted rule to be delayed in conformance with legislative restrictions. Alternative B would add language to the October 8 version that specifically addresses legislative restrictions. It would specify that the Board notify interested parties about implementation authorized by legislative actions by means of an interpretive statement published in the State Register. Mr. Therien indicated that more details on these two options would be prepared for the August 12 hearing, after staff spent more time with legal counsel to determine the best technique to recommend to the Board. Chair Katz asked about criteria to evaluate these two alternatives and whether the purpose of the discussion this day was merely to bring the Board up to date. Mr. Therien replied yes and that he would elaborate on the two techniques in August after staff had more input from counsel. Mr. McLaughlin commented that there were three issues to take into account: procedural, workforce, and political. He said Alternatives A and B are both legal but that the risk of a challenge and ease of defending a challenge needed to be considered more fully. In terms of politics, he explained that he only had time to brief key people on one model and so could not comment on the differences yet. He said both alternatives were put forth because of the deadline to file the proposal and to allow public comment about the different techniques. Member VanDusen stated she wanted to be sure the old existing rule remained in place until superseded by the new rule. Mr. McLaughlin said it could. Vice Chair Higman said he understood the Board might be uncomfortable because the Environmental Health Committee does not have strong recommendations yet on the alternatives. Member Tonasket said he felt confused but trusted the Environmental Health Committee. Chair Katz encouraged Mr. McLaughlin to send clarifying materials to Board members as soon as possible.

12. 246-203-130 WAC, PETITION FOR RULE MAKING, KEEPING OF ANIMALS

Member VanDusen directed Board members attention to materials behind Tab 12. She explained that some of the Board's general sanitation rules (chapter 246-203 WAC) may have been superseded by more specific statutory authorities of other agencies. She said RCW 34.05.330 provides an opportunity for people to petition the Board to adopt, amend, or repeal any rule. She said a petition was received about the keeping of animals from the Washington Association of Conservation Districts. Mr. Therien explained that the Board received the petition to initiate rule making on WAC 246-203-130, Keeping of animals, on June 25. John Larson, Executive Director of the Washington Association of Conservation Districts was present and available for questions about his petition. Mr. Therien said the Board has 60 days to either open rule making or deny the petition. He explained that the rule had three subsections and the request is to revise only one of them. The rule provides a tool to local health jurisdictions for controlling potential public health nuisances caused by animals,

particularly by their wastes. He then reviewed the three sections. He said that since the time this rule was put into place, the Department of Agriculture and Department of Ecology have gained statutory authority that might supersede the Board's authority, especially for large dairy operations. Mr. Therien explained the governmental status of conservation districts under statute, which are represented by the Washington Association of Conservation Districts. He pointed out the specific language amendment proposed in the petition for subsection (2). He said that the Board might wish to consider more general amendment of the rule than proposed in the petition. He recommended that this should involve a full stakeholder process that includes proponents and opponents of amending the rule. He said that he understands that the petition came out of the Clark County area.

Chair Katz asked if the Environmental Health Committee had reviewed this issue. Mr. Therien indicated that they had no strong opinions about the direction to go. Vice Chair Higman explained that the committee had more questions than answers and was operating within time constraints. He said that the Committee recommends that to meet the 60-day time limit the Board should open the rule without predetermining whether to amend as requested specifically in the petition.

Mr. McLaughlin reported that the Board received e-mails late yesterday and earlier today from a representative for Citizens for Sustainable Development, Monroe Chapter opposing this petition and expressing concern for the public health risks posed by Confined Animal Feeding Operations (CAFOs). He mentioned that copies of a 15-page letter had been distributed to Board members in the morning. He said that the representative of the group objected to the Board making a decision on the petition without holding a public hearing, without reviewing all the materials already submitted, and before responding to a public records request. Mr. McLaughlin said the Board is not required to take public testimony before deciding whether to initiate rule making or how to respond to a petition for rule making.

Mr. Therien said he had spoken with the manager of the Department of Agriculture's dairy nutrient management program and she offered to address the Board about her agency's authority for dairy operations. Mr. McLaughlin said DOH does not have a general sanitation program and that the workload for rule making would fully fall on Board staff. Member VanDusen stated that during strategic planning, the Board could decide how to prioritize rule making. Vice Chair Higman clarified that the Environmental Health Committee is recommending opening the rule for complete review of the issues involved.

Motion: *The Board directs staff to file a pre-proposal statement of inquiry (CR-101) by August 24, 2009 to consider amendment or repeal of WAC 246-203-130, Keeping of animals.*

Motion/Second: *Higman/Austin. Approved unanimously*

13. WAC 246-100-202(E), HEARING ON PROPOSED RULE FOR PROPHYLACTIC TREATMENT TO PREVENT OPHTHALMIA NEONATORUM,

Patricia Ortiz, SBOH Member, introduced the topic. She explained that this is an action item. She explained that the rule updates reflect current standards of care practiced by most health care providers, and specify how providers should handle records in instances when parents elect not to have their infants treated. Bat-Sheva Stein, Department of Health, explained the rule proposal. She indicated that the rule had a reference to an outdated treatment option and needed to be replaced with current treatment options. She also explained that the proposed rule language specifies how health care providers should document when parents refuse treatment. She said some stakeholders wanted the rule to explain what providers needed to do when parents opted out of treatment. She

reviewed the comments received (see Tab 13) and called the Board's attention to a letter addressed to the Board from Jodilyn Owen. Tara Wolff, SBOH staff, clarified that the proposed rule change does not create a right of refusal rather it specifies how providers need to handle documentation in cases when parents refuse treatment. Member VanDusen asked whether the proposed language listing treatments in the rule could limit flexibility for including new treatments. Ms. Stein responded it is easier for the providers to find the information if it is in the rule. She checked with FDA and there is no new antibiotic undergoing evaluation for this use, so it is unlikely it will approve a new treatment in the next four years. This means there will not be a need for another rule revision in the near future. Vice Chair Higman asked why we require treatment of all newborns given the rate of gonorrhea infections. Member Ortiz said that it is difficult to make sure all pregnant women are free of infection at the time of delivery. This is because most women are tested for infection early in their pregnancy however, the infection can occur later in the pregnancy. Ms. Stein added that 2,000-3,000 mothers per year do not receive pre-natal care and so are never tested for infection. Member Higman asked if the rule defined health care provider. Ms. Stein replied that it did not. Member Ortiz said it was good to refer to health care provider in the rule, since it is a broad term. Member Austin asked whether this state had a law requiring a health care provider be in attendance during all deliveries. Ms. Stein responded there was no such law. Member Ortiz explained about doulas, who are professional labor coaches.

***Motion:** The Board adopts the revised WAC 246-100-202(e) as published in WSR 09-11-110.*

***Motion/Second:** Ortiz/Wright. Approved unanimously, except Member Austin abstained.*

14. STRATEGIC PLANNING – PRELIMINARY DISCUSSION

Mr. McLaughlin referenced the documents behind Tab 14 and gave an overview of status of the 2007 Five-Year Strategic Plan. He proposed that the Board update the plan using a process very similar to the process it used in 2007. Chair Katz said the mission and vision should not need revision each time the plan is updated. Dr Hayes stated that she would like to see the addition of a goal that public health be a concept considered in all policies, not just policies set by health agencies. She said that in a future of fewer resources, the Board might have a greater effect on the public's health by trying to influence policy makers and boards working at the local level. Chair Katz asked for examples. Dr Hayes referred to social determinants of health such as housing, academic achievement, and neighborhood resources (i.e. sidewalks, markets with fresh produce, etc).

There was discussion about the mission statement bullet about "promoting system partnerships." Members VanDusen and Ortiz suggested it be revised to say "promoting partnerships that enhance the health of the public." The Board members agreed to that change, but decided there was no need to change the vision and goals.

Mr. McLaughlin asked the Board to take a few minutes to brainstorm about what strategies or activities they would like to consider adding to the plan. Member Austin expressed concern about the impact to public health of about 40,000 people that might be losing their health insurance. Donna Wright, SBOH Member, suggested staff bolster the Board's relationship with city-county associations to jointly develop ideas on how to strengthen public health finance. Member VanDusen suggested trying to help set priorities for public health during times of budget shortfalls. Member Ortiz suggested increasing communication with primary health care professional associations. Dr. Hayes suggested that public health needs to be a lens through which all policy is made at the local level. Member Tonasket said more effort should be devoted to marketing public health to the public. Chair Katz said that a central problem is that everyone works in silos. Member Tonasket said he gets

frustrated with strategic planning processes because the Board primarily responds to what DOH brings to it to review, rather than the Board developing new ways to address problems.

Chair Katz asked when staff would have a memo clearly explaining the differences between Alternatives A and B of the school rule proposal. Vice Chair Higman said the target should be at least a week before the August Board meeting. Mr. McLaughlin responded that staff would try to get something to members two weeks before the August meeting. Member VanDusen asked what staff needs from members. Mr. McLaughlin responded that it was important for the Board's committees to provide guidance to staff. Member VanDusen shared a discussion she had with Dr. Tom Locke during lunch about inviting rural hospitals to come and address the Board about their concerns.

ADJOURNMENT

Treuman Katz, SBOH Chair, adjourned the meeting at 2:58 p.m.

WASHINGTON STATE BOARD OF HEALTH

Treuman Katz, Chair